

**UNITED STATES DISTRICT COURT
District of Maine**

**FRONTIER COMMUNICATIONS
CORPORATION f/k/a CITIZENS
COMMUNICATIONS COMPANY,**

Plaintiff

v.

**BARRETT PAVING MATERIALS,
INC., et al.,**

Defendants

Civil No. 07-113-B-S

**ORDER AFFIRMING THE
RECOMMENDED DECISION OF THE MAGISTRATE JUDGE**

The United States Magistrate Judge filed with the Court on October 8, 2009, her Recommended Decision (Docket No. 168). Defendants Maine Central Railroad Company and Pan Am Railways, Inc., f/k/a Guilford Transportation Industries, Inc., filed their Objection to the Recommended Decision (Docket No. 170) on October 19, 2009. Plaintiff Frontier Communications Corporation filed its Response to Defendants' Objection to the Recommended Decision (Docket No. 171) on November 5, 2009.

I have reviewed and considered the Magistrate Judge's Recommended Decision, together with the entire record; I have made a de novo determination of all matters adjudicated by the Magistrate Judge's Recommended Decision; and I concur with the recommendations of the United States Magistrate Judge for the reasons set forth in her Recommended Decision, and determine that no further proceeding is necessary.

1. It is therefore **ORDERED** that the Recommended Decision of the Magistrate Judge is hereby **AFFIRMED**.
2. It is hereby **ORDERED** that Plaintiff's Motion to Dismiss [the Railroad] Defendants' Counterclaim (Document No. 154) is **GRANTED IN PART**, and the Railroad's first counterclaim in its entirety and the second counterclaim to the extent of its request for declaratory relief under CERCLA § 113(g) is **DISMISSED**, thus retaining that portion of the second counterclaim that is premised on the Declaratory Judgment Act.

/s/George Z. Singal

U.S. District Judge

Dated this 12th day of November, 2009.